

**DEPARTMENT OF HEALTH SERVICES
BUREAU OF EMERGENCY SERVICES
SUBSTANTIVE POLICY STATEMENTS
#SP-055-PHS-EMS**

EMS 410: Clarification of Requirements for a Transfer of a Certificate of Necessity

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

The purpose of this substantive policy is to clarify the requirements for transferring a certificate of necessity (CON). For purposes of this substantive policy, transfer is defined in A.A.C. R9-25-901 as a change of ownership or type of business entity.

EMS 410: A.R.S. § 36-2236 requires written approval from the director before a CON is transferred. The statute further states that when a certificate is transferred, a new certificate is issued that is valid only for the unexpired term of the transferred certificate.

According to A.R.S. § 36-2233(B), before issuing a CON the director must find that all of the following apply:

1. The ambulance service has a certificate of registration issued by the department for at least one ambulance pursuant to A.R.S. § 36-2212.
2. The director finds that public necessity requires the service or any part of the service proposed by the applicant.
3. The director finds that the applicant is fit and proper to provide the service.
4. The applicant has paid the appropriate fees pursuant to A.R.S. § 36-2240.
5. The applicant has filed a surety bond pursuant to A.R.S. § 36-2237.

For a transfer of a CON, the department interprets the requirements in A.R.S. 36-2233(1), (2), and (3) as follows:

1. An application approved by the department pursuant to R9-25-1001 for registration of an ambulance to be used for the CON being transferred is de facto evidence that the person to whom the CON is being transferred complies with the requirement.
2. According to A.A.C. R9-25-901(45) public necessity means an identified population needs or requires all or part of the services of a ground ambulance service. When the director issues an initial CON, the director has determined that there is a public necessity for the ambulance service in a specific service area. In reviewing an application for a transfer the director considers whether the response times, response codes, response-time tolerances, type of ambulance services, level

of ambulance services, and service area requested by the person to whom the CON is being transferred remain the same as the response times, response codes, response-time tolerances, type of ambulance services, level of ambulance services, and service area of the current CON. If there are no changes to the response times, response codes, response-time tolerances, type of ambulance services, level of ambulance services, and service area, and the ambulance service transferring the CON is providing regular transport services in the service area, then the public necessity requirement has been met.

If, after a transfer is approved, there are changes to the CON that would require an amendment to an initial CON as stated in A.A.C. R9-25-905, a certificate holder is required to submit an application for an amended CON.

3. To determine whether the applicant is fit and proper, the director determines that the applicant meets the requirements in A.R.S. § 36-2201(19).

If the applicant meets the standards required in (1), (2), and (3), pays the required fees, and files a surety bond pursuant to A.R.S. § 36-2237, the Department will transfer the CON by issuing a new CON that will remain in effect for the unexpired term of the current CON.

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